

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23400 of
ELMER M. AND EMALINE D. RINTA to
Appropriate from Bean Creek in
Santa Cruz County.

Decision 1371

DECISION APPROVING APPLICATION

Elmer M. and Emaline D. Rinta having filed Application 23400 for a permit to appropriate unappropriated water; protests having been received; the applicants and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

Substance of the Application

1. Application 23400 is for a permit to appropriate 530 gallons per day by direct diversion, year-round, and 0.1 acre-foot per annum by storage from March 1 to June 30 of each year for domestic and recreational purposes from Bean Creek in Santa Cruz County. The point of diversion is to be located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 7, T10S, R1W, MDB&M.

Source of Water

2. Bean Creek originates in the Santa Cruz Mountains at an elevation of approximately 1,600 feet and flows in a general southwesterly direction approximately nine miles to join Zayante Creek, which is tributary to the San Lorenzo River.

Applicants' Project

3. The applicants have installed a gasoline-powered pump on Bean Creek approximately three miles above the Bean Creek-Zayante Creek confluence. Water from the creek is pumped through approximately 325 feet of one-inch pipe for use at a small garden and swimming pool.

Protestants

4. Protestant Thelma Anderson holds License 7638 (Application 17747) to divert 900 gallons per day from Bean Creek for domestic use from about April 1 to about November 30 of each year. The water is used for watering a lawn and flower garden located approximately 200 feet downstream from the applicants.

Protestants Wentworth claim a riparian right to water from Bean Creek for fire protection. As their point of diversion is approximately 100 feet above applicants' point of diversion, approval of Application 23400 cannot result in harm to them and their protest can be disregarded.

Availability of Water in Bean Creek

5. Water in Bean Creek is principally runoff from precipitation and the creek's flow decreases sharply following the spring rains. On June 17, 1970, the time of the field investigation on Application 23400, the flow in the creek at the applicants' point of diversion was 0.25 cubic foot per second.

There is ample water for the applicants and protestant Thelma Anderson and other holders of prior rights to water from Bean Creek in most years except at certain times during the summer months. As the creek is on bedrock at the county road crossing immediately above the confluence of Bean Creek and Mackenzie Creek, water passing that point is surplus to the needs of others holding rights to water from the creek and is available to applicants.

Existence of Unappropriated Water

6. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

Special Term to Protect Protestant

8. The permit issued on Application 23400 should contain a term contained in previous permits to appropriate water from Bean Creek limiting diversions to times when there is surface flow at the county road crossing in Section 7, T10S

RIW, MDB&M. This will adequately protect the protestant and other holders of vested rights during occasions when there is no surplus water available to the applicants.

From the foregoing findings, the Board concludes that Application 23400 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Applications 18739, 18986, 19658 and 23400 and all relevant information on file therewith, particularly the report of field investigation made June 17, 1970, on Application 23400.

ORDER

IT IS HEREBY ORDERED that Application 23400 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 530 gallons per day by direct diversion to be diverted year-round and 0.1 acre-foot per annum by storage to be collected from March 1 to June 30 of each year. The equivalent of the continuous flow allowance by direct diversion for any seven-day period may be diverted in a shorter time if there be no interference with vested rights.

The maximum rate of diversion to offstream storage shall not exceed 12 gallons per minute.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation losses or for any other purpose.

Diversions under this permit shall be made only when surface flow of Bean Creek exists at the county road crossing immediately above the confluence of Bean Creek and Mackenzie Creek in Section 7, T10S, R1W, MDB&M.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1973.

4. Progress reports shall be filed promptly by permittee on forms which will be provided by the State Water Resources Control Board until license is issued.

5. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

6. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified

pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

7. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Los Angeles, California.

Dated: February 18, 1971

KERRY W. MULLIGAN

Kerry W. Mulligan, Chairman

E. F. DIBBLE

E. F. Dibble, Vice Chairman

NORMAN B. HUME

Norman B. Hume, Member

RONALD B. ROBIE

Ronald B. Robie, Member

W. W. ADAMS

W. W. Adams, Member